



**THE ATTORNEY GENERAL  
OF TEXAS**

**JIM MATTOX  
ATTORNEY GENERAL**

January 13, 1989

Honorable B. J. Shepherd  
Bosque County Attorney  
County Attorney's Office  
P. O. Box 647  
Meridian, Texas 76665

LO-89-3

Dear Mr. Shepherd:

You ask the following question:

Can the Commissioners Court amend an adopted budget increasing the salaries of all elected county and precinct officers without complying with Section 152.013?

More specifically, you want to know whether a commissioners court can raise the salaries of elected county and precinct officers pursuant to sections 111.010 and 111.011 of the Local Government Code.

Sections 111.010 and 111.011 govern amendment of a county budget. Section 111.010 provides:

(a) The commissioners court may levy taxes only in accordance with the budget.

(b) After final approval of the budget, the commissioners court may spend county funds only in strict compliance with the budget, except in an emergency.

(c) The commissioners court may authorize an emergency expenditure as an amendment to the original budget only in a case of grave public necessity to meet an unusual and unforeseen condition that could not have been included in the original budget through the use of reasonably diligent thought and attention. If the court amends the original budget to meet an emergency, the court shall

file a copy of its order amending the budget with the county clerk, and the clerk shall attach the copy to the original budget.

Section 111.011 provides:

This subchapter does not prevent the commissioners court from making changes in the budget for county purposes.

See generally Attorney General Opinion JM-784 (1987) (containing thorough history and analysis of the interpretation of the provisions governing amendment of county budget).

Section 152.013 governs how the salaries of elected county and precinct officers are to be set. Section 152.013 provides:

(a) Each year the commissioners court shall set the salary, expenses, and other allowances of elected county or precinct officers. The commissioners court shall set the items at a regular meeting of the court during the regular budget hearing and adoption proceedings.

(b) Before the 10th day before the date of the meeting, the commissioners court must publish in a newspaper of general circulation in the county a notice of:

- (1) any salaries, expenses, or allowances that are proposed to be increased; and
- (2) the amount of the proposed increases.

(c) Before filing the annual budget with the county clerk, the commissioners court shall give written notice to each elected county and precinct officer of the officer's salary and personal expenses to be included in the budget.

The substance of section 111.010 was formerly a part of article 689a-11, V.T.C.S., and the substance of section 111.011 was part of article 689a-20, V.T.C.S. The substance of section 152.013 of the Local Government Code was formerly codified as section 2(a) of article 3912k, V.T.C.S. In 1987, as part of a nonsubstantive recodification, those

provisions were recodified in the Local Government Code. See Local Gov't Code § 1.001(a) (Local Government Code is nonsubstantive recodification).

In Attorney General Opinion H-11 (1973) this office considered how section 2(a) of article 3912k, which governed the salaries of elected county and precinct officials, affected the provisions governing amendment of the county budget, then articles 689a-11 and 689a-20. The opinion concluded that section 2(a) of article 3912k impliedly amended the provisions governing budget amendments. Consequently, any increases in the salaries of elected county or precinct officers would need to be made in compliance with section 2(a) of article 3912k. In other words, the salaries of elected county or precinct officers must be set at the regular meeting of the court during the regular budget hearing and adoption proceedings. Such salaries may not be increased by a budget amendment at another time. See also Attorney General Opinion H-643 (1975) (commissioners court may not reduce the salary of a county attorney below the amount set at annual budget hearing until following fiscal year); Attorney General Opinions JM-599 and JM-430 (1986) (citing Attorney General Opinion H-11 with approval); see generally Attorney General Opinion H-314 (1974) (addressing issue of salary increase after grievance procedure). The nonsubstantive recodification of the provision governing salaries of elected county officials and the provisions governing amendments to county budgets does not affect the interpretation of those provisions. Therefore, the answer to your specific question is that a commissioners court must comply with the provisions of section 152.013 of the Local Government Code in setting the salaries of elected county and precinct officers.

Very truly yours,



Sarah Woelk, Chief  
Letter Opinion Section  
Opinion Committee

SW/bc

Ref.: RQ-1557  
ID#4488